

REMARKS

Claims 9 – 10 are amended and new claims 11 – 15 are presented for examination. Claims 1 – 15 are pending herein upon entry of this amendment; claims 1 – 7 and 9 stand withdrawn from consideration.

The Examiner requires restriction between the following claims under 35 USC §§ 121 and 372:

Group I, claim(s) 1 – 7, drawn to a method of combating and controlling insects, acarines, nematodes or mollusks with a compound of formula (I);

Group II, claim(s) 8 and 10, drawn to a composition of formula (IK);

Group III, claim 9, drawn to a composition of formula 11;

Group IV, claim 9, drawn to a composition of formula 10;

Group V, claim 9, drawn to a composition of formula 9; and

Group VI, claim 9, drawn to a composition of formula 9A.

Applicants are required to elect one group for examination even if with traverse. Applicants hereby elect to prosecute the invention of group II, claims 8 and 10, with right of traverse. Applicants reserve the right to file one or more divisional applications directed to any non-elected subject matter.

Applicants provisionally elect compound I-1 as a specific species. The structure of this compound is shown in paragraph [0073] and in Table I on page 13, its mass spectra is displayed in Table 3 on page 31, its preparation is described in Example 2 on pages 48-49, and its biological data is presented in paragraph [0302] of page 62 of the published application US2006/106045. It is the compound of formula IK in which R¹ is 2-chloro-pyrid-4-yl; Y is C=O; R² and R³ are hydrogen; n is 0; R⁸ is cinnamyl; and R⁹ and R¹⁰ are hydrogen. Claims 8 and 10 and new claims 11 to 15 read on the provisionally elected compound I-1 and the elected group II.

Applicants respectfully request that the newly presented claims 11 – 15, which depend from claim 8, be examined along with the elected group II and that claim 9, as amended, be rejoined in the event that the Examiner holds claims 8 and 10 allowable.

Applicants hereby traverse the requirement for restriction in that the elected invention relates to novel spiroindolinepiperidine derivatives of formula IK. Applicants contend that a reasonable search could go to the related methods of use of compounds of formula I and to the intermediate compounds of formulae 9, 9A, 10 and 11. Accordingly, the Examiner is respectfully requested to reconsider the requirement for restriction and withdrawal of the same. Additionally, the current guidelines on restriction practice recommend the examination of different sets of claims when such examination would not be unduly burdensome or prolonged. It is contended that this guideline would apply to the instant set of claims.

Applicants maintain that they have made a complete response to the restriction requirement of the Examiner and that the instant application and claims are now in condition for examination on their merits and for allowance. A Notice of Allowance is respectfully solicited.

Respectfully submitted,

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Date: May 6, 2008